

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4151 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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SUNAV NAGARIK SAHAKARI BANK LTD

Versus

SATYENDRABHAI M PATEL  
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Appearance:

1. Special Civil Application No. 4151 of 1996  
MR RN SHAH for Petitioner No. 1  
MR BS PATEL for Respondent No. 1  
MRS RANJAN B PATEL for Respondent No. 1  
NOTICE SERVED BY DS for Respondent No. 2  
GOVERNMENT PLEADER for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE K.M.MEHTA

Date of decision: 10/01/2005

ORAL JUDGEMENT

1. SUNAV NAGARIK SAHAKARI BANK LTD, through its  
Managing Director Mr.P.B.Patel and Chairman Mr.Shmanbhai  
M.Patel, petitioner has filed this petition with a prayer  
that:

"..... be pleased to quash and set aside the order dated 16/3/1996 passed in Appeal No.106/93 and restore the order dated 15/2/93 passed by the Inquiry Officer appointed by the Dist. Registrar under the provision of section 93 of the act."

The petition was filed on 17th June 1996.

2. On behalf of petitioner, learned advocate Mr.R.N.Shah appeared. On behalf of respondent No.2 District Registrar, learned AGP Mr.L.B.Dabhi appeared.

3. The petitioner is a Cooperative Bank Ltd., known as Sunav Nagrik Sahakari Bank Ltd, registered under the Gujarat Cooperative Societies Act and its affairs are done in accordance with the provisions of the Gujarat Cooperative Societies Act, Rules thereunder, bylaws and provisions of the Banking Regulations Act, 1949.

4. Petitioner Bank has appointed one Mr.Satyendrabhai M.Patel as an Accountant vide resolution No.111 of the Board of Directors passed on 14.05.1978 and thereafter, he was also confirmed as permanent to the post of Accountant by resolution No.66 dated 07.12.1978 passed by the Board of Director. He was also authorized the accountant to sign the return required to be sent to the Reserve Bank of India.

5. It appears that, thereafter, respondent No.1 was liable for the criminal breach of trust with the Bank and the Board of Directors and in discharging his duty as accountant he had made false entries in the books of accounts and thus, committed serious offence of falsification of account and directly involved in the criminal offence of cheating, forgery by withdrawing the huge amount frequently from various accounts of customers by writing withdrawal in his own handwriting and without signature of the parties concerned.

6. Being aggrieved and dissatisfied with the said order, the petitioner filed Appeal No.102 before the Gujarat Cooperative Tribunal, challenging the order dated 15.02.1993, passed by the Inquiry Officer under Section 93.

7. Cooperative Tribunal without entering into the merits, interpreted whether the meaning can be said to be legal as per the definition given under the Co-operative Societies Act and whether such proceeding under Section 93 is liable against the accountant.

8. The Tribunal held that in view of Section 2(14) of the Act which provides that:

"officer" means a person elected or appointed by a society to any office of such society according to its bye-laws; and includes a Chairman, vice-chairman, president, vice-president, managing director, manager, secretary, treasurer, member of the committee, and any other person elected or appointed under this Act, the rules or bye-laws, to give directions in regard to the business of such society."

The Tribunal interpreted word "Officer" given in Cooperative Societies Act and held that the accountant cannot be held to be officer as defined under Section 2 (14) of the act.

9. Being aggrieved and dissatisfied with the said order, learned advocate Mr.R.N.Shah appeared and tried to assail the findings of the Tribunal in this behalf.

10. I have gone through the reasoning of the Tribunal. I have also gone through the definition of word "Officer" as provided under Section 2(14) of the Act. Tribunal has held that in this case, the liability of other persons are joint and several and, therefore Appeal No.106/93 filed by the petitioner was allowed and the observations of the Inquiry Officer dated 15th February 1993 have been set aside to the extent, the accountant is concerned.

11. In view of the same, I find that Tribunal has given cogent and convincing reasons and I do not find any reason to interfere with the same under Article 227 of the Constitution of India. Therefore, petition is dismissed. Rule is discharged with no order as to costs.

(K.M.Mehta, J.)

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